

## Message Text

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ORIGIN EB-07

INFO OCT-01 EUR-12 IO-11 ISO-00 L-03 AID-05 CEA-01 CIAE-00

COME-00 EA-07 FRB-03 INR-07 NEA-10 NSAE-00 USIA-06

OPIC-03 SP-02 TRSE-00 CIEP-01 LAB-04 SIL-01 OMB-01

AGR-05 ITC-01 STR-04 /095 R

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EUR/WE:MDURKEE (SUBS)

TREASURY:AGAULT

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R 081614Z MAR 76

FM SECSTATE WASHDC

TO AMEMBASSY MADRID

INFO USMISSION GENEVA

USMISSION OECD PARIS

USMISSION EC BRUSSELS

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E.O. 11652: N/A

TAGS: ETRD, SP

SUBJECT: CORN IMPORT RESTRICTIONS

REF: MADRID 970 (NOTAL)

1. REFTEL (BEING REPEATED TO INFO ADDRESSEES) REPORTS  
GOS HAS TAKEN ACTIONS WHICH COULD REDUCE U.S. EXPORTS OF  
CORN TO SPAIN, IF MAINTAINED. ACTIONS INCLUDE AN INCREASE  
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IN THE VARIABLE LEVY, BRINGING THE EFFECTIVE IMPORT

CHARGES TO MORE THAN 32 PERCENT, AD VALOREM EQUIVALENT, AND A DRASTICALLY SHORTENED PERIOD OF VALIDITY FOR IMPORT LICENSES (15 DAYS INSTEAD OF 50 DAYS FOR U.S. EXPORTS). CORN WAS THE LARGEST AGRICULTURAL EXPORT TO SPAIN IN 1975, WITH EXPORTS OF 403 MILLION DOLLARS.

2. IN 1963, SPAIN ACCEDED TO THE GENERAL AGREEMENT ON TARIFFS AND TRADE. AS PART OF THE PRICE OF ACCESSION, SPAIN AGREED TO BIND ITS TARIFF ON SPANISH TARIFF NO. 10.05B (CORN, OTHER) TO 20 PERCENT, I.E., SPAIN AGREED TO CHARGE NO MORE THAN 20 PERCENT, AS ITS IMPORT TARIFF, FOR PRODUCTS ENTERING UNDER BTN 10.05B.

A. ARTICLE VIII:I(A) STATES THAT: "ALL FEES AND CHARGES OF WHATEVER CHARACTER (OTHER THAN IMPORT AND EXPORT DUTIES AND OTHER THAN TAXES WITHIN THE PURVIEW OF ARTICLE III) IMPOSED BY CONTRACTING PARTIES ON OR IN CONNECTION WITH IMPORTATION OR EXPORTATION SHALL BE LIMITED IN AMOUNT TO THE APPROXIMATE COST OF SERVICES RENDERED AND SHALL NOT REPRESENT AN INDIRECT PROTECTION TO DOMESTIC PRODUCTS OR A TAXATION OF IMPORTS OR EXPORTS FOR FISCAL PURPOSES." "OTHER CHARGES" MUST THUS BE LIMITED TO THE COST OF SPECIFIC GOVERNMENTAL SERVICES, EXCEPT IN THE CASE OF TAXES OR DUTIES.

B. ARTICLE III:2 STATES THAT: "THE PRODUCTS OF THE TERRITORY OF ANY CONTRACTING PARTY IMPORTED INTO THE TERRITORY OF ANY OTHER CONTRACTING PARTY SHALL NOT BE SUBJECT, DIRECTLY OR INDIRECTLY, TO INTERNAL TAXES OR OTHER INTERNAL CHARGES OF ANY KIND IN EXCESS OF THOSE APPLIED, DIRECTLY OR INDIRECTLY, TO LIKE DOMESTIC PRODUCTS." ALL TAXES ON IMPORTS MUST THEN CORRESPOND TO TAXES ON LIKE DOMESTIC PRODUCTS, EXCEPT IN THE CASE OF IMPORT DUTIES AND "OTHER CHARGES" REFERRED TO IN ARTICLE VIII.

C. THE UPSHOT OF THE QUOTED ARTICLES IS THAT THE SUM OF CHARGES IN EXCESS OF 20 PERCENT IS NOT RELATED TO SERVICES RENDERED AND CANNOT BE JUSTIFIED AS A TAX, SINCE IT WOULD BE DISCRIMINATORY AGAINST IMPORTS CONTRARY LIMITED OFFICIAL USE

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TO ARTICLE III:2. WE CONCLUDE THAT THE CHARGES--THE DUTY OF 1.4 PERCENT; THE COMPENSATORY LEVY OF 8.5 PERCENT AND THE VARIABLE LEVY OF 1600 PESETAS PER METRIC TON--ARE INDEED DUTIES AND THAT THE GOS IS NOT MEETING ITS OBLIGATIONS TO US UNDER THE GATT, SINCE THE DUTIES EXCEED THE BINDING OF 20 PERCENT.

3. U.S. EXPORTS OF GRAIN SORGHUM TO SPAIN IN 1975 WERE

ABOUT 3.8 MILLION DOLLARS, BUT IT IS NOT CLEAR  
WHETHER THE LATTER ARE ALSO AFFECTED BY THE RECENT  
SPANISH ACTIONS. REQUEST EMBASSY CLARIFICATION.

4. EMBASSY SHOULD POINT OUT TO APPROPRIATE LEVEL OF THE  
GOS THAT WE BELIEVE ABOVE ACTIONS ARE INCONSISTENT WITH  
SPAIN'S OBLIGATIONS UNDER THE 1963 GATT BINDING AND SHOULD  
REQUEST THAT LEVEL OF PROTECTION BE ROLLED BACK TO NO  
MORE THAN THE 20 PERCENT, GATT BOUND LEVEL, SO THAT  
THIS ISSUE WILL NOT BECOME AN IRRITANT TO OUR TRADE  
RELATIONS. EMBASSY SHOULD REPORT GOS REACTION, INCLUDING  
ANY ATTEMPTED JUSTIFICATION. UNLESS GOS RAISES MATTER,  
EMBASSY SHOULD NOT DISCUSS OUR VIEWS CONCERNING GATT  
ARTICLES III AND VIII (PARA 3 ABOVE).

5. EMBASSY SHOULD ALSO REPORT ALL AVAILABLE DETAILS  
OF THESE RESTRICTIONS, IN PARTICULAR, LIKELIHOOD OF TRADE  
DIVERSION TO EC SOURCES AS A RESULT OF SHORTENED PERIOD  
OF VALIDITY OF IMPORT LICENSES. WE WOULD APPRECIATE  
EMBASSY'S ASSESSMENT OF THE PROSPECTS OF RESCINDING  
THE ACTIONS IN THE NEAR FUTURE. KISSINGER

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**Disposition Approved on Date:**  
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